IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.9.2007

CORAM:

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN
AND
THE HONOURABLE MR.JUSTICE R.REGUPATHI

H.C.P.No.853 of 2007

G. Rajarethinam .. Petitioner

Vs

1. The Commissioner of Police
   Coimbatore City
   Coimbatore.

2. The Secretary to Government
   Prohibition & Excise Department
   Fort St. George
   Chennai 600 009. .. Respondents

Petition filed under Article 226 of the Constitution of India for issue of Writ of Habeas Corpus as stated therein.

For Petitioner : Mr.S.Chandramouli

For Respondents : Mr.P.Kumaresan
Additional Public Prosecutor

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O R D E R

(Order of the Court was made by P.D.DINAKARAN,J.)

The petitioner, who is the father of the detenu, Gnanaprakash @ Prakash, who was incarcerated by order dated 11.5.2007 of the first respondent under Section 3(1) of the Tamil Nadu Prevention of Dangerous Activities of Bootleggers,

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Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982) branding him as Goonda, has preferred this writ petition for issue of a Writ of Habeas Corpus to call for the records in connection with the order of detention passed by the first respondent dated 11.5.2007 in his Office Ref.No.43/G/IS/2007 against the petitioner's son, Gnanaprakash @ Prakash, now confined at Central Prison, Coimbatore, to set aside the same and to direct the respondents to produce the above said detenu before this Court and set him at liberty.

2. On the basis of the complaint given by one Karthick, a case was registered in Crime No.299 of 2007 on the file of B-8 Variety Hall Road Police Station for the offence punishable under Section 392 read with 397 I.P.C. against one Gnanaprakash @ Prakash, the detenu herein. According to the complainant, on 4.4.2007 at 12.30 hours, when he was waiting at Marakkadai bus stop along with his friend Ramesh, three persons came in a motorcycle and stopped near them and two of them tried to snatch money from his shirt pocket. When the complainant raised alarm, the third person took out a knife from his pocket, brandished the same and snatched a cover from his shirt pocket containing Rs.500/- and a driving licence. When his friend and others tried to catch the detenu, he brandished the knife, threatened to kill them and escaped from the spot. On seeing this atrocious activity, people ran helter shelter resulting in dislocation of traffic. Enquiry revealed that the persons were the detenu herein and two others.

3. The detaining authority, treating the above case as ground case and finding that there are eight adverse cases pending against the detenu for the offence punishable under Sections 457 and 380 I.P.C. and having satisfied that there is a compelling necessity to detain the said Gnanaprakash @ Prakash in order to prevent him from indulging in the activities which are prejudicial to the maintenance of public order and public health, ordered his detention dubbing him as a Goonda.

4. According to the learned counsel for the petitioner the detention order is to be set aside on the ground of incorrect facts, since the order of detention is dated 11.5.2007, whereas the grounds of detention is dated 15.5.2007.

5. We find some substance in the contention of the learned counsel. We are unable to appreciate that when the grounds of detention itself is dated 15.5.2007, how could the detaining authority have passed the detention order on 11.5.2007, which is an error apparent on the face of record. Hence, on this ground, the order of detention dated 11.5.2007 is liable to be set aside and accordingly, it is set aside. The habeas corpus petition is

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allowed. The detenu is directed to be set at liberty forthwith unless his presence is required in connection with any other case.

ATR

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To:

1. The Commissioner of Police,
   Coimbatore City.

2. The Secretary to Government
   Prohibition and Excise Department
   Fort St. George, Chennai-9.

3. The Superintendent
   Central Prison, Coimbatore.

4. The Public Prosecutor,
   High Court, Madras.

5. The Joint Secretary
   to the Government of Tamil Nadu,
Public (Law and Order) Department,
Fort St George, Chennai 9.

+ 1 cc to Mr. Chandaramouli, Advocate SR No. 59528

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AKR(CO)
SR/3.10.2007

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